



Reprinted
April 10, 2007

ENGROSSED SENATE BILL No. 412

DIGEST OF SB 412 (Updated April 9, 2007 9:44 pm - DI 44)

Citations Affected: IC 4-1; IC 36-2.

Synopsis: Social Security number disclosures. Specifies the circumstances under which a state educational institution may disclose a Social Security number to a contractor or other person. Specifies that the statement on a recorded instrument regarding redaction of Social Security numbers must be located at the conclusion of the instrument.

Effective: Upon passage; July 1, 2007.

Hershman, Dillon, Zakas

(HOUSE SPONSORS — MICON, WALORSKI, LAWSON L)

January 11, 2007, read first time and referred to Committee on Judiciary.
February 8, 2007, amended, reported favorably — Do Pass.
February 22, 2007, read second time, amended, ordered engrossed.
February 23, 2007, engrossed.
February 26, 2007, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

March 13, 2007, read first time and referred to Committee on Interstate and International Cooperation.
April 5, 2007, amended, reported — Do Pass.
April 9, 2007, read second time, amended, ordered engrossed.

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ES 412—LS 7649/DI 87+



Reprinted
April 10, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 412

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-1-10-1.5 IS ADDED TO THE INDIANA CODE
2 AS **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2007]: **Sec. 1.5 As used in this chapter, "person" means an**
4 **individual, a corporation, a limited liability company, a**
5 **partnership, or other legal entity.**

6 SECTION 2. IC 4-1-10-5.5 IS ADDED TO THE INDIANA CODE
7 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
8 UPON PASSAGE]: **Sec. 5.5. Unless prohibited by state law, federal**
9 **law, or a court order, the following apply:**

10 (1) **A state educational institution may disclose, in addition to**
11 **the disclosures otherwise permitted by this chapter, a Social**
12 **Security number of an individual to the following:**

13 (A) **A state, local, or federal agency or a person with whom**
14 **a state, local, or federal agency has a contract to perform**
15 **the agency's duties and responsibilities.**

16 (B) **A person that the state educational institution contracts**
17 **with to provide goods or services to the state educational**

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institution if:

(i) the disclosure is necessary for the contractor to perform the contractor's duties and responsibilities under the contract; and

(ii) the contract requires adequate safeguards, including any safeguards required by state or federal law, to prevent any use or disclosure of the Social Security numbers for any purpose other than those purposes described in the contract and to require the return or confirmed destruction of any Social Security numbers following termination of the contractual relationship.

(C) Persons to whom the state educational institution may otherwise legally disclose for the permissible purposes of the following:

(i) The Family Education Rights and Privacy Act (20 U.S.C. 1232g et seq.).

(ii) The Health Insurance Portability and Accountability Act (42 U.S.C. 201 et seq.).

(D) The state educational institution's legal counsel, but only to the extent that a state educational institution could disclose a Social Security number to an in-house counsel.

(2) Consent for the authorized disclosure of any individual's Social Security number may be given to a state educational institution by electronic transmission if the state educational institution is reasonably able to verify the authenticity of the consent. A state educational institution may rely on the written consent of an individual given to a third party if the consent expressly permits the disclosure of the individual's Social Security number by the state educational institution.

SECTION 3. IC 36-2-7-10.1, AS AMENDED BY P.L.171-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10.1. (a) As used in this section, "bulk form" means:

(1) a copy of all recorded documents received by the county recorder for recording in a calendar day, week, month, or year;

(2) the indices for finding, retrieving, and viewing all recorded documents received by the county recorder for recording in a calendar day, week, month, or year; or

(3) both subdivisions (1) and (2).

(b) As used in this section, "bulk user" means an individual, a corporation, a partnership, a limited liability company, or an unincorporated association that purchases bulk form copies. However,

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"bulk user" does not include an individual, a corporation, a partnership, a limited liability company, or an unincorporated association whose primary purpose is to resell public records.

(c) As used in this section, "copy" means:

(1) duplicating electronically stored data onto a disk, tape, drum, or any other medium of electronic data storage; or

(2) reproducing on microfilm.

(d) As used in this section, "indices" means all of the indexing information used by the county recorder for finding, retrieving, and viewing a recorded document.

(e) As used in this section, "recorded document" means a writing, a paper, a document, a plat, a map, a survey, or anything else received at any time for recording or filing in the public records maintained by the county recorder.

(f) The county recorder shall collect the fees prescribed by this section for the sale of recorded documents in bulk form copies to bulk users of public records. The county recorder shall pay the fees into the county treasury at the end of each calendar month. The fees prescribed and collected under this section supersede all other fees for bulk form copies required by law to be charged for services rendered by the county recorder to bulk users.

(g) Except as provided by subsection (h), the county recorder shall charge bulk users the following for bulk form copies:

(1) Five cents (\$0.05) per page for a recorded document, including the index of the instrument number or book and page, or both, for retrieving the recorded document.

(2) Five cents (\$0.05) per recorded document for a copy of the other indices used by the county recorder for finding, retrieving, and viewing a recorded document.

(h) As used in this subsection, "actual cost" does not include labor costs or overhead costs. The county recorder may charge a fee that exceeds the amount established by subsection (g) if the actual cost of providing the bulk form copies exceeds the amount established by subsection (g). However, the total amount charged for the bulk form copies may not exceed the actual cost plus one cent (\$0.01) of providing the bulk form copies.

(i) The county recorder shall provide bulk users with bulk form copies in the format or medium in which the county recorder maintains the recorded documents and indices. If the county recorder maintains the recorded documents and indices in more than one (1) format or medium, the bulk user may select the format or medium in which the bulk user shall receive the bulk form copies. If the county recorder

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maintains the recorded documents and indices for finding, retrieving, and viewing the recorded documents in an electronic or a digitized format, a reasonable effort shall be made to provide the bulk user with bulk form copies in a standard, generally acceptable, readable format. Upon request of the bulk user, the county recorder shall provide the bulk form copies to the bulk user within a reasonable time after the recorder's archival process is completed and bulk form copies become available in the office of the county recorder.

(j) Bulk form copies under this section may be used:

- (1) in the ordinary course of the business of the bulk user; and
- (2) by customers of the bulk user.

The bulk user may charge its customers a fee for using the bulk form copies obtained by the bulk user. However, bulk form copies obtained by a bulk user under this section may not be resold.

(k) All revenue generated by the county recorder under this section shall be deposited in the recorder's record perpetuation fund and used by the recorder in accordance with section ~~10(c)~~ 10(d) of this chapter.

(l) This section does not apply to enhanced access under IC 5-14-3-3.

SECTION 4. IC 36-2-11-15, AS AMENDED BY P.L.171-2006, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) This section does not apply to:

- (1) an instrument executed before July 1, 1959, or recorded before July 26, 1967;
- (2) a judgment, order, or writ of a court;
- (3) a will or death certificate;
- (4) an instrument executed or acknowledged outside Indiana; or
- (5) a federal lien on real property or a federal tax lien on personal property, as described in section 25 of this chapter.

(b) The recorder may receive for record or filing an instrument that conveys, creates, encumbers, assigns, or otherwise disposes of an interest in or lien on property only if:

- (1) the name of the person and governmental agency, if any, that prepared the instrument is printed, typewritten, stamped, or signed in a legible manner at the conclusion of the instrument; and
- (2) all Social Security numbers in the document are redacted, unless required by law.

(c) An instrument complies with subsection (b)(1) if it contains a statement in the following form: "This instrument was prepared by (name).".

(d) An instrument complies with subsection (b)(2) if it contains a

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1 statement in the following form **at the conclusion of the instrument:**
2 "I affirm, under the penalties for perjury, that I have taken reasonable
3 care to redact each Social Security number in this document, unless
4 required by law (name).".
5 SECTION 5. **An emergency is declared for this act.**

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SENATE MOTION

Madam President: I move that Senator Dillon be added as second author of Senate Bill 412.

HERSHMAN

 COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 412, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 4, delete "requires" and insert "**includes**".

Page 2, line 5, after "to" insert ":

(i)".

Page 2, line 6, delete "." and insert "; **and**

(ii) require the notification of affected individuals in the event the Social Security number of an individual is improperly disclosed.".

and when so amended that said bill do pass.

(Reference is to SB 412 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 7, Nays 0.

 SENATE MOTION

Madam President: I move that Senate Bill 412 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-1-10-1.5 IS ADDED TO THE INDIANA CODE AS **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 1.5 As used in this chapter, "person" means an individual, a corporation, a limited liability company, a partnership, or other legal entity.**".

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Page 1, line 17, after "goods" insert "**or services**".

Renumber all SECTIONS consecutively.

(Reference is to SB 412 as printed February 9, 2007.)

HERSHMAN

SENATE MOTION

Madam President: I move that Senator Zakas be added as coauthor of Senate Bill 412.

HERSHMAN

SENATE MOTION

Madam President: I move that Senate Bill 412 be amended to read as follows:

Page 3, after line 23, begin a new paragraph and insert:

"SECTION 3. IC 36-2-7-10.1, AS AMENDED BY P.L.171-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10.1. (a) As used in this section, "bulk form" means:

- (1) a copy of all recorded documents received by the county recorder for recording in a calendar day, week, month, or year;
- (2) the indices for finding, retrieving, and viewing all recorded documents received by the county recorder for recording in a calendar day, week, month, or year; or
- (3) both subdivisions (1) and (2).

(b) As used in this section, "bulk user" means an individual, a corporation, a partnership, a limited liability company, or an unincorporated association that purchases bulk form copies. However, "bulk user" does not include an individual, a corporation, a partnership, a limited liability company, or an unincorporated association whose primary purpose is to resell public records.

(c) As used in this section, "copy" means:

- (1) duplicating electronically stored data onto a disk, tape, drum, or any other medium of electronic data storage; or
- (2) reproducing on microfilm.

(d) As used in this section, "indices" means all of the indexing

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information used by the county recorder for finding, retrieving, and viewing a recorded document.

(e) As used in this section, "recorded document" means a writing, a paper, a document, a plat, a map, a survey, or anything else received at any time for recording or filing in the public records maintained by the county recorder.

(f) The county recorder shall collect the fees prescribed by this section for the sale of recorded documents in bulk form copies to bulk users of public records. The county recorder shall pay the fees into the county treasury at the end of each calendar month. The fees prescribed and collected under this section supersede all other fees for bulk form copies required by law to be charged for services rendered by the county recorder to bulk users.

(g) Except as provided by subsection (h), the county recorder shall charge bulk users the following for bulk form copies:

- (1) Five cents (\$0.05) per page for a recorded document, including the index of the instrument number or book and page, or both, for retrieving the recorded document.
- (2) Five cents (\$0.05) per recorded document for a copy of the other indices used by the county recorder for finding, retrieving, and viewing a recorded document.

(h) As used in this subsection, "actual cost" does not include labor costs or overhead costs. The county recorder may charge a fee that exceeds the amount established by subsection (g) if the actual cost of providing the bulk form copies exceeds the amount established by subsection (g). However, the total amount charged for the bulk form copies may not exceed the actual cost plus one cent (\$0.01) of providing the bulk form copies.

(i) The county recorder shall provide bulk users with bulk form copies in the format or medium in which the county recorder maintains the recorded documents and indices. If the county recorder maintains the recorded documents and indices in more than one (1) format or medium, the bulk user may select the format or medium in which the bulk user shall receive the bulk form copies. If the county recorder maintains the recorded documents and indices for finding, retrieving, and viewing the recorded documents in an electronic or a digitized format, a reasonable effort shall be made to provide the bulk user with bulk form copies in a standard, generally acceptable, readable format. Upon request of the bulk user, the county recorder shall provide the bulk form copies to the bulk user within a reasonable time after the recorder's archival process is completed and bulk form copies become available in the office of the county recorder.

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(j) Bulk form copies under this section may be used:

- (1) in the ordinary course of the business of the bulk user; and
- (2) by customers of the bulk user.

The bulk user may charge its customers a fee for using the bulk form copies obtained by the bulk user. However, bulk form copies obtained by a bulk user under this section may not be resold.

(k) All revenue generated by the county recorder under this section shall be deposited in the recorder's record perpetuation fund and used by the recorder in accordance with section ~~10(c)~~ **10(d)** of this chapter.

(l) This section does not apply to enhanced access under IC 5-14-3-3.

SECTION 4. IC 36-2-11-15, AS AMENDED BY P.L.171-2006, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) This section does not apply to:

- (1) an instrument executed before July 1, 1959, or recorded before July 26, 1967;
- (2) a judgment, order, or writ of a court;
- (3) a will or death certificate;
- (4) an instrument executed or acknowledged outside Indiana; or
- (5) a federal lien on real property or a federal tax lien on personal property, as described in section 25 of this chapter.

(b) The recorder may receive for record or filing an instrument that conveys, creates, encumbers, assigns, or otherwise disposes of an interest in or lien on property only if:

- (1) the name of the person and governmental agency, if any, that prepared the instrument is printed, typewritten, stamped, or signed in a legible manner at the conclusion of the instrument; and
- (2) all Social Security numbers in the document are redacted, unless required by law.

(c) An instrument complies with subsection (b)(1) if it contains a statement in the following form: "This instrument was prepared by (name).".

(d) An instrument complies with subsection (b)(2) if it contains a statement in the following form **at the conclusion of the instrument and below the statement required by subsection (b)(1):** "I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law (name)."

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SECTION 5. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

(Reference is to SB 412 as printed February 9, 2007.)

HERSHMAN

COMMITTEE REPORT

Mr. Speaker: Your Committee on Interstate and International Cooperation, to which was referred Senate Bill 412, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 6 through 17, begin a new paragraph and insert:

"SECTION 2. IC 4-1-10-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE UPON PASSAGE]: **Sec. 5.5. Unless prohibited by state law, federal law, or a court order, the following apply:**

(1) A state educational institution may disclose, in addition to the disclosures otherwise permitted by this chapter, a Social Security number of an individual to the following:

(A) A state, local, or federal agency or a person with whom a state, local, or federal agency has a contract to perform the agency's duties and responsibilities.

(B) A person that the state educational institution contracts with to provide goods or services to the state educational institution if:

(i) the disclosure is necessary for the contractor to perform the contractor's duties and responsibilities under the contract; and

(ii) the contract requires adequate safeguards, including any safeguards required by state or federal law, to prevent any use or disclosure of the Social Security numbers for any purpose other than those purposes described in the contract and to require the return or confirmed destruction of any Social Security numbers following termination of the contractual relationship.

(C) Persons to whom the state educational institution may otherwise legally disclose for the permissible purposes of the following:

(i) The Family Education Rights and Privacy Act (20 U.S.C. 1232g et seq.).

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(ii) The Health Insurance Portability and Accountability Act (42 U.S.C. 201 et seq.).

(D) The state educational institution's legal counsel, but only to the extent that a state educational institution could disclose a Social Security number to an in-house counsel.

(2) Consent for the authorized disclosure of any individual's Social Security number may be given to a state educational institution by electronic transmission if the state educational institution is reasonably able to verify the authenticity of the consent. A state educational institution may rely on the written consent of an individual given to a third party if the consent expressly permits the disclosure of the individual's Social Security number by the state educational institution."

Delete page 2.

Page 3, delete lines 1 through 28.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 412 as reprinted February 23, 2007.)

HARRIS E, Chair

Committee Vote: yeas 11, nays 0.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 412 be amended to read as follows:

Page 5, line 1, after "instrument" insert ":".

Page 5, line 2, delete "and below the statement required by subsection (b)(1):".

(Reference is to ESB 412 as printed April 6, 2007.)

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